

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Volha Shauchenka	Team: Squad #8	CCRB Case #: 201806885	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/12/2018 10:42 AM	Location of Incident: In front of § 87(2)(b)	Precinct: 106	18 Mo. SOL 2/12/2020	EO SOL 2/12/2020	
Date/Time CV Reported Sun, 08/12/2018 11:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 08/21/2018 11:18 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Ryan Kenny	01715	930472	106 PCT
2. Officers			106 PCT
3. An officer			106 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Waisburd	12729	961433	106 PCT
2. POM Mustafa Young	25873	957301	106 PCT
3. POM Andrew Rosen	24106	953342	106 PCT
4. POM Michael Sardone	25772	951214	106 PCT
5. POM Thomas Szenczy	13826	956290	106 PCT
6. POM Steven Ferreira	16627	960536	106 PCT
7. POF Maria Brzezinski	22015	963887	106 PCT
8. POM David Alvarado	21923	962921	106 PCT
9. POM Ryan Paul	07020	949454	106 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Ryan Kenny	Abuse: Sergeant Ryan Kenny forcibly removed § 87(2)(b) to the hospital.	
B.SGT Ryan Kenny	Abuse: Sergeant Ryan Kenny frisked § 87(2)(b)	
C.SGT Ryan Kenny	Discourtesy: Sergeant Ryan Kenny spoke discourteously to § 87(2)(b)	
D.SGT Ryan Kenny	Force: Sergeant Ryan Kenny used physical force against § 87(2)(b)	
E.SGT Ryan Kenny	Force: Sergeant Ryan Kenny used physical force against § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
H. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon a mental disability.	

Case Summary

On August 12, 2018, complainant-witness § 87(2)(b) filed this complaint on behalf of his son § 87(2)(b) with IAB over the telephone, generating original log #18-31550. The case was received by the CCRB on August 21, 2018.

On August 12, 2018, Sgt. Ryan Kenny, PO Ryan Paul along with other officers of the 106th Precinct responded to a 911 call placed by § 87(2)(b)'s mother, § 87(2)(b) regarding her son behaving violently at their house at § 87(2)(b) in Queens. Sgt. Kenny made a decision to remove § 87(2)(b) to the hospital for a psychiatric evaluation (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Kenny allegedly frisked § 87(2)(b) and said to him, "Shut the fuck up wise ass," (**Allegation B: Abuse of Authority**, § 87(2)(g)). **Allegation C: Discourtesy**, § 87(2)(g)). Sgt. Kenny then took § 87(2)(b) to the ground and punched him a disputed number of times (**Allegations D and E: Force**, § 87(2)(g)). Unidentified officers also allegedly kicked § 87(2)(b) in his ribcage (**Allegation F: Force**, § 87(2)(g)). In addition, an unidentified officer allegedly stated, "This fucking retarded kid," to § 87(2)(b) (**Allegations G: Discourtesy**, § 87(2)(g)). § 87(2)(b); **Allegation H: Offensive Language**, § 87(2)(g)). § 87(2)(b) was ultimately handcuffed and removed to § 87(2)(b) in Queens, where he stayed until the following morning.

§ 87(2)(b) recorded a brief video on his cell phone that captured a part of the incident [BR 14, *Original*]. Mrs. § 87(2)(b) also provided surveillance video footage from the house across the street that captured part of the incident [BR 07, *Original*]. Officers involved in the incident were not assigned body-worn cameras.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Ryan Kenny forcibly removed § 87(2)(b) to the hospital.

Allegation (B) Abuse of Authority: Sergeant Ryan Kenny frisked § 87(2)(b)

Allegation (C) Discourtesy: Sergeant Ryan Kenny spoke discourteously to § 87(2)(b)

The investigation has established the following facts: based on the 911 recording, on August 12, 2018, at 10:38 a.m., § 87(2)(b) called 911 to request an ambulance for her son, § 87(2)(b) who was having a psychiatric episode [NYPD 06]. She further reported to the operator that her son had a history of violence and was "acting up" on that day. § 87(2)(b) stated § 87(2)(b) did not have any weapons on him. The dispatcher related that information to the officers adding that the location was sensitive due to previous calls involving an emotionally disturbed person (EDP) and domestic violence. Sgt. Kenny, PO Paul, along with other officers from their command, responded to the location. EMTs § 87(2)(b) and § 87(2)(b) from § 87(2)(b) were automatically dispatched to the location as well. Upon arrival, the officers spoke to § 87(2)(b)'s parents before encountering him.

In his statement to the CCRB, § 87(2)(b) stated he believed his mother called the police on him because he failed to take his anti-anxiety medication [BR 08]. § 87(2)(b) left his house to get some air where he encountered his parents, numerous police officers and EMTs. An officer, described as a white male, 6'3" – 6'4" tall, muscular, in his 30s, with short black hair, identified by the investigation as Sgt. Kenny, told § 87(2)(b) to raise his hands and patted

his waistband and back. Sgt. Kenny asked § 87(2)(b) if he did anything inside the house, and § 87(2)(b) replied he did not. § 87(2)(b) then asked the officers, “Why the fuck you guys approaching me like that? Why are you guys harassing me?” Sgt. Kenny replied, “Shut the fuck up wiseass.”

When interviewed at the CCRB, § 87(2)(b) stated that his son is a psychiatric patient and was supposed to take his prescribed medication [BR 13]. On the day of the incident, § 87(2)(b) had not taken his medication and became agitated by playing with his phone very loudly and smoking in the house. § 87(2)(b) requested his son to smoke outside and he refused. § 87(2)(b) knew that the situation could escalate, which could entail § 87(2)(b) throwing chairs and breaking the television, so § 87(2)(b) became scared and called 911. However, on the incident date, § 87(2)(b) had not engaged in that type of behavior. § 87(2)(b) reported to the 911 operator that his son was having a psychiatric breakdown and request for assistance. He did not state that § 87(2)(b) was being violent. When the officers responded, § 87(2)(b) was on the stoop smoking a cigarette. He changed his behavior in order to avoid being taken to the hospital. Two officers spoke to § 87(2)(b) and informed him he had to go to the hospital. § 87(2)(b) complied and walked into the street with the officers. § 87(2)(b) stated he was inside the house during § 87(2)(b)s and the officers’ initial encounter and the door was closed. He did not observe any officers pat § 87(2)(b) down or use any profanity towards him [BR 23].

In her verified testimony to the CCRB, § 87(2)(b) stated that her son suffers from schizophrenia or personality disorder and is a substance abuser [BR 09]. There are times when § 87(2)(b) is stable but other times, when he takes synthetic marijuana, he goes into psychosis, bangs against walls and throws things. When the family is unable to control the situation, they call 911, and officers from the 106th Precinct already know § 87(2)(b) had been in and out of psychiatric wards since 2014 and his family periodically calls 911 because of his behavior. § 87(2)(b) noted, however, that her son is never violent and never acts out with the officers. § 87(2)(b) refused to say what § 87(2)(b) did on August 12, 2018 that prompted the 911 call, and just said that she reported he was having a psychiatric breakdown. Mrs. § 87(2)(b) recognized most of the responding officers because usually the same sector responds. § 87(2)(b) was in the basement, and Mrs. § 87(2)(b) let the officers inside to look for him. The officer, identified by Mrs. § 87(2)(b) as Sgt. Kenny, told § 87(2)(b) “Hey man, you know the run. Let’s go.” § 87(2)(b) voluntarily left the house to be taken to the hospital and Mrs. § 87(2)(b) remained inside the house. Mrs. § 87(2)(b) stated she was present during their initial encounter but did not observe or hear any officers frisk § 87(2)(b) or use any profanity towards him [BR 24].

In his testimony to the CCRB, Sgt. Kenny stated that the radio transmission noted that § 87(2)(b) was attacking his mother at the location [BR 17]. Sgt. Kenny did not recall if the details of the transmission noted any weapons involved. Sgt. Kenny had never been to that location before but almost all the other responding officers had. They informed Sgt. Kenny that the incidents involving § 87(2)(b) are almost always violent, especially when he consumes controlled substances, such as synthetic marijuana. The officers also told Sgt. Kenny that § 87(2)(b) almost always has to be forced to go to the hospital. Upon arrival, the officers knocked on the door and spoke to § 87(2)(b). The EMTs arrived approximately five minutes later but they did not go to the house with the officers. § 87(2)(b) stated, “Thank God you’re here,” and informed the officers that she and her son had gotten in an argument and he beat her. Since Sgt. Kenny did not observe any bruises to § 87(2)(b) or any damaged property inside, he

assumed that the argument was more verbal than physical. § 87(2)(b) also informed the officers that those types of incidents occurred more frequently but they are not always physical. § 87(2)(b) told the officers § 87(2)(b) was in the basement, where they found him. Sgt. Kenny asked § 87(2)(b) if he had any sharp or dangerous objects on him, to which § 87(2)(b) responded he did not. Sgt. Kenny did not observe any objects that looked like a weapon on § 87(2)(b) since was not wearing much clothing: he had a tank top and pajama pants. Sgt. Kenny did not recall patting § 87(2)(b) nor did he recall if any other officers did. Sgt. Kenny asked § 87(2)(b) to go outside to talk, and they all went to the § 87(2)(b) floor. § 87(2)(b) started recording the incident on his cell phone stating he would post it on his Instagram account. The officers asked § 87(2)(b) how he was feeling and he made incoherent statements, such as the officers had been watching him, he was “thankful for ice cream,” and that he smoked K2 [synthetic marijuana].

During that interaction on the first floor, PO Andrew Rosen informed Sgt. Kenny he had responded to that location before, sometimes two-three times a day. Sgt. Kenny believed that § 87(2)(b) had to be taken to a hospital for an evaluation because he could be a threat to himself and others. Sgt. Kenny felt that § 87(2)(b) was an emotionally disturbed person based on his behavior, the reason for the 911 call, Mrs. § 87(2)(b)'s statements and § 87(2)(b)'s history of mental illness. § 87(2)(b) initially refused to go to the hospital but after some convincing from the officers, he agreed. Sgt. Kenny did not recall telling § 87(2)(b) “Shut the fuck up wiseass” or using any profanity towards him. § 87(2)(b) and the officers walked outside towards the ambulance. Sgt. Kenny did not recall if the EMTs spoke to § 87(2)(b) until that point. An Emergency Services Unit had also been dispatched to the location but Sgt. Kenny cancelled it since § 87(2)(b) was compliant.

When interviewed at the CCRB, PO Paul stated he did not recall the details of the radio transmission but noted it mentioned an EDP [BR 18]. PO Paul was familiar with the location and knew that the calls from there usually involve § 87(2)(b) having a dispute with his parents and not taking his medication. Officers would respond to the location once every few months but during the summer of 2018, the 911 calls seemed to come almost every week. PO Paul personally responded to several incidents involving § 87(2)(b). On two different occasions in 2018, prior to August 12, § 87(2)(b) was found on the street with a knife and said he was carving a pumpkin and was also arrested for damaging someone's car. PO Paul was unaware if Sgt. Kenny knew of § 87(2)(b)'s history nor did he recall if any officers briefed him about it. Upon arrival, the officers spoke to Mrs. § 87(2)(b) who opened the house door for them. PO Paul did not recall any information provided by Mrs. § 87(2)(b) to the officers apart from the fact that he was not taking his medication. PO Paul believed that § 87(2)(b) came outside on his own volition and was asked by an officer, who PO Paul did not recall, to wait for an ambulance since he was going to the hospital. The officers and Rajeve § 87(2)(b) moved to the street where he engaged in some “tough talking” with the officers. PO Paul did not hear any officers tell § 87(2)(b) “Shut the fuck up wiseass”. PO Paul did not recall if § 87(2)(b) acknowledged not taking his medication. PO Paul did not have any suspicion that Ramjeeve § 87(2)(b) was carrying any weapons nor did he recall if any officers patted him down.

In his verified statement to the CCRB, EMT § 87(2)(b) stated he and his partner responded to the location because of an EDP with a history of psychiatric disorder who had threatened to attack, or had attacked his mother [BR 15]. EMT § 87(2)(b) believed that the dispatcher knew that 911 calls from the location were frequent, therefore, they automatically dispatched an ambulance. However, EMT § 87(2)(b) had never been to that address before. When the EMTs arrived, an officer

had flagged them down and informed them that the patient, § 87(2)(b) was uncooperative and warned them to be safe. § 87(2)(b) was already walking to the street together with the officers. EMT § 87(2)(b) did not observe any officers pat § 87(2)(b) nor did he hear any officers use any profanity towards him. EMT § 87(2)(b) was inconsistent in explaining whose decision it was to remove § 87(2)(b) to the hospital. He first stated that it was his mother's and the EMTs decision since § 87(2)(b) was off his medication and attempted to attack his mother. He later stated that the decision to remove § 87(2)(b) to the hospital was made by the officers since they spoke to § 87(2)(b)'s parents before the EMTs. EMT § 87(2)(b) noted that generally they are still required to make an assessment once they respond to the scene, whether the person should be removed to the hospital. In that specific case, § 87(2)(b)'s behavior was consistent with what had been put over the radio. After § 87(2)(b) was placed in an ambulance, EMT § 87(2)(b) partner related to him that § 87(2)(b)'s mother told her that she called 911 because her son was not taking his medication and attempted to or hit her. However, during his interaction with § 87(2)(b) EMT § 87(2)(b) did not believe that § 87(2)(b) was a threat to himself and others.

EMT § 87(2)(b) was largely consistent with EMT § 87(2)(b) in her verified statement to the CCRB apart from the following details [BR 16]. She stated she had responded to the location two or three times before and during those times, § 87(2)(b) was verbally abusive. She confirmed that § 87(2)(b) and the officers were already on the street when they arrived. EMT § 87(2)(b) spoke to § 87(2)(b) who stated he called 911 because § 87(2)(b) had threatened his mother, which was a frequent occurrence. § 87(2)(b) also told EMT § 87(2)(b) he did not know whether § 87(2)(b) was taking his medication. Since EMT § 87(2)(b) focused her attention on her conversation with § 87(2)(b) she did not hear all the details of the officers' interaction with § 87(2)(b). She did not hear any officers use any profanity towards § 87(2)(b) nor did she observe them pat § 87(2)(b) down. When asked who made the decision to remove § 87(2)(b) to the hospital, EMT § 87(2)(b) stated when the dispatch notes that someone has a history of psychiatric disorders and making physical threats,, they are considered a dangerous person and have to be evaluated by a doctor. She noted that some incidents may prove different from what was related initially. However, that was not the case with § 87(2)(b). When § 87(2)(b) informed EMT § 87(2)(b) that he did not know if his son was taking medication, coupled with § 87(2)(b)'s aggressive behavior towards the officers (discussed within the subsequent allegations) confirmed EMT § 87(2)(b)'s assessment that he had suffered from psychiatric disorder and needed to be evaluated. Moreover, she was told by the officers that they are frequently called to the location and § 87(2)(b) has a history of being removed to the hospital.

§ 87(2)(b)'s medical records from § 87(2)(b) from § 87(2)(b) note his extensive history of various psychiatric disorders, substance abuse and violence [PD 01]. The records note that § 87(2)(b) was removed to the hospital because of his aggressive behavior to the parents but that he appeared to be calm and compliant at the time of observation. The psychiatrist noted that § 87(2)(b) denied living with his parents, threatening them or having psychiatric disorders. His father asked the doctor to keep § 87(2)(b) at the hospital for a day to let him "cool off." § 87(2)(b) was administered anti-anxiety and anti-psychotic medication and was discharged on the following morning after his family indicated they felt safe having him return home. § 87(2)(b)

Available video evidence did not reveal the alleged misconduct [BR 07, 14]. However, it should be noted that the videos did not capture the incident in its entirety.

An AIDED report prepared for § 87(2)(b) by PO Maria Brzezinski of the 106th Precinct notes that he had a psychiatric history and verbally threatened others [NYPD 09].

According to NYPD Patrol Guide Procedure 221-13, an emotionally disturbed person who is conducting themselves in a manner likely to result in a serious injury to themselves or others, must be taken into protective custody and removed to a hospital [BR 21].

§ 87(2)(g)

Allegation (D) Force: Sergeant Ryan Kenny used physical force against § 87(2)(b)
Allegation (E) Force: Sergeant Ryan Kenny used physical force against § 87(2)(b)
Allegation (F) Force: Officers used physical force against § 87(2)(b)
Allegation (G) Discourtesy: An officer spoke discourteously to § 87(2)(b)
Allegation (H) Offensive Language: An officer made remarks to § 87(2)(b) based upon a mental disability.

§ 87(2)(b) stated that a few seconds after he was frisked, Sgt. Kenny took him to the ground [BR 08]. § 87(2)(b) landed on his left side and then moved onto his stomach. Approximately four officers surrounded § 87(2)(b). He felt several punches on his back and head and then several kicks to his ribcage from behind. He was unable to see who was punching and kicking him. While being struck, § 87(2)(b) heard an officer say, “This fucking retarded kid.” During that time, § 87(2)(b) was screaming in pain but the officers did not tell him anything. They never instructed him to place his hands behind his back nor did they make any

attempts to grab his hands. § 87(2)(b) denied making any movements towards the officers, striking or kicking them. In approximately 20 seconds, § 87(2)(b) was handcuffed and placed in the ambulance without any struggle. § 87(2)(b) alleged he sustained some abrasions and bruising to his left elbow as a result of the incident [See photo BR 12].

According to § 87(2)(b)'s medical records from § 87(2)(b), his father asked the nurse to take pictures of § 87(2)(b)'s injuries [PD 01]. However, the nurse noted that he did not have any visible physical injuries other than a superficial abrasion to his forehead, which was not bleeding. § 87(2)(b) denied any pain at the time of the assessment.

§ 87(2)(b) stated that after everyone went to the street, he spoke to the EMTs about the hospital his son should be taken to, while § 87(2)(b) had some conversation with the officers [BR 13]. He noted that § 87(2)(b) might have said, "Fuck the police," which is a lyric in a song he listens to. Sgt. Kenny then grabbed § 87(2)(b) and took him to the ground without any help from others. § 87(2)(b) did not make any statements prior to that nor did he attempt to run away. § 87(2)(b) landed on his face, after which, Sgt. Kenny punched him on his head (top, back and sides) approximately five – six times. Sgt. Kenny also had his leg on § 87(2)(b)'s neck. Two other officers were holding § 87(2)(b) and he was unable to move. § 87(2)(b) did not offer any resistance and was screaming that he was in pain the entire time. § 87(2)(b) did not see when the officers handcuffed him but when he was picked up, he was already handcuffed. § 87(2)(b) was then placed in the ambulance.

§ 87(2)(b) stated that after everyone went outside, she looked out the window and saw § 87(2)(b) lying on the ground on his left side [BR 09]. She observed approximately five-six officers holding him but did not see what he was doing with his body at the time. Meanwhile, Sgt. Kenny held his knee on § 87(2)(b)'s head and punched him five-six times in his head. § 87(2)(b) was then handcuffed and picked up. § 87(2)(b) came to the street and observed her son crying. She asked her husband who punched § 87(2)(b) and he pointed at Sgt. Kenny. § 87(2)(b) said to Sgt. Kenny, "I called you to help my son. I didn't know you were gonna beat him." Sgt. Kenny did not reply and appeared remorseful.

Sgt. Kenny testified that after they moved outside and reached the ambulance, § 87(2)(b) stopped and said, either "Wait, I'm not going to the hospital," or "Fuck this. I'm not going" [BR 17]. § 87(2)(b) then started calling the officers "bitchass niggers" and "pussies" and said, "I can take all you bitchass niggers and pussies. Don't take me to the hospital." § 87(2)(b) also started moving his arms around, tensed up and flushed, which led Sgt. Kenny to believe that he was about to become combative. Sgt. Kenny determined that § 87(2)(b) was not going to go to the hospital voluntarily and informed PO Rosen and PO David Alvarado that they were going to handcuff him. PO Rosen and Sgt. Kenny grabbed § 87(2)(b) by his arms, but he tensed up and elbowed Sgt. Kenny in his upper chest area. § 87(2)(b) then dropped his weight, began to thrash around and threw the officer's hand off him. He then threw one handcuff off himself and swung punches at PO Rosen. Sgt. Kenny did not observe if any of the punches landed on the officer. § 87(2)(b) continued cursing at the officers and then started spitting at them.

Sgt. Kenny concluded that the only way to handcuff § 87(2)(b) was to take him to the ground, which he did. Sgt. Kenny maintained a grip on one of § 87(2)(b)'s arms during the takedown. After the fall, § 87(2)(b) tucked his other arm underneath his body and began to kick at the officers, who were attempting to hold his legs but were unable to contain him. § 87(2)(b)'s face was near Sgt. Kenny's hand and thigh and he continued spitting and attempted to bite Sgt. Kenny. Sgt. Kenny did not observe where the spit landed. Sgt. Kenny held

§ 87(2)(b)'s cheek to keep him from biting. The officers continuously told § 87(2)(b) to give his other arm but he verbally refused and continued kicking his legs. Sgt. Kenny attempted to pull § 87(2)(b)'s arm from underneath him and he attempted to bite the sergeant again. Eventually, Sgt. Kenny struck § 87(2)(b) with his fist in his torso, near his neck and head, and commanded § 87(2)(b) to give his arm. § 87(2)(b) responded, "No, fuck you," and Sgt. Kenny struck him in the same area again. § 87(2)(b) said, "Ok, ok, ok," and released his arm. PO Rosen and PO Alvardao then were able to handcuff § 87(2)(b). Sgt. Kenny explained that he punched § 87(2)(b) to gain compliance and was the only one to do so. He denied kicking § 87(2)(b) nor did he observe other officers do so. Sgt. Kenny denied referring to § 87(2)(b) as a "fucking retarded kid" or hearing any other officers make that statement. He added he would not tolerate someone having said that. § 87(2)(b) was then walked towards the ambulance and continued spitting at the officers. He also told the officers, "I'm gonna bring my AK to the precinct and kill all of you. I have a vest, I have a gun. I'm going to kill all of you."

PO Paul recalled § 87(2)(b) engaging in some "tough talk," stating he would come to the 106th Precinct stationhouse and "shoot it up" [BR 18]. At some point, Sgt. Kenny took § 87(2)(b) to the ground and instructed officers to handcuff him. However, PO Paul did not recall what preceded that or why § 87(2)(b) had to be handcuffed. PO Paul did not recall if § 87(2)(b) behaved in a physically aggressive manner. PO Paul noted however that § 87(2)(b) was verbally refusing to go to the hospital. PO Paul along with some other officers he did not recall went to assist Sgt. Kenny. PO Paul grabbed § 87(2)(b)'s hand, which was tucked underneath his body. PO Paul did not recall § 87(2)(b)'s actions while he was on the ground nor did he observe any officers punch and kick § 87(2)(b). PO Paul denied using any force towards § 87(2)(b) and stated that eventually, other officers were able to handcuff § 87(2)(b). PO Paul did not observe any physical injuries to § 87(2)(b) nor did he hear him complain of any. PO Paul did not hear any officers tell § 87(2)(b) "This fucking retarded kid," and denied making that statement. The ambulance arrived once § 87(2)(b) was handcuffed and he was placed inside. He was also combative with the EMTs, spitting and kicking at them.

EMT § 87(2)(b) stated that as § 87(2)(b) and the officers were walking to the street, he was cursing at the officers by calling them "fucking pigs" [BR 15]. EMT § 87(2)(b) could tell that § 87(2)(b) did not want to go to the hospital because he was stopping periodically. After they exited the gate of § 87(2)(b)'s house and approached the ambulance within 10 feet, § 87(2)(b) stopped and started recording the incident on his cell phone by putting it in the officers' faces. As he was recording, § 87(2)(b) made some "gang-related" statements, such as "Y2G" and "eff you pigs." EMT § 87(2)(b) described § 87(2)(b)'s behavior as threatening since he was moving close to the officers and was waving his hands. However, § 87(2)(b) did not make any threatening statements at the time. The officers told § 87(2)(b) he had to get into the ambulance and he verbally refused. After attempting to convince § 87(2)(b) to get into the ambulance for a few minutes, the officers told him to place his hands behind his back. § 87(2)(b) verbally refused and continued to record the incident. EMT § 87(2)(b) turned away to get the stretcher out of the ambulance in order to allow the officers to deal with an uncooperative person. By the time EMT § 87(2)(b) took the stretcher out, he observed the officers walk § 87(2)(b) in handcuffs. EMT § 87(2)(b) did not witness him being on the ground or the officers use any force towards him. EMT § 87(2)(b) did not hear any sounds of a struggle or screams from § 87(2)(b) that he was in pain. EMT § 87(2)(b) did not hear any officers call § 87(2)(b) a "fucking

retarded kid”. EMT § 87(2)(b) did not see any physical injuries to § 87(2)(b) nor did he complain of any. EMT § 87(2)(b) believed that § 87(2)(b) was handcuffed for safety purposes since he was being “irate.” Ultimately, the officers and EMTs convinced § 87(2)(b) to get into the ambulance. § 87(2)(b) cursed at EMT § 87(2)(b) and spat at the door. Some of § 87(2)(b)’s spit landed on EMT § 87(2)(b)’s face and some on the ambulance wall. Therefore, EMT § 87(2)(b) had to place an oxygen mask on § 87(2)(b).

EMT § 87(2)(b) stated while she was talking to § 87(2)(b) she overheard § 87(2)(b) stating he did not want to go to the hospital [BR 16]. She noted that usually indicates that a person could be a potential “threat” to leave. § 87(2)(b) called everyone “pussies” and kept saying “fuck you” and “fuck this.” However, § 87(2)(b) was not physically aggressive at the time and was just cursing. § 87(2)(b) then attempted to turn away from the officers. EMT § 87(2)(b) assumed that he wanted to go back into the house. EMT § 87(2)(b) did not observe § 87(2)(b) spit at the officers or get close to them. The officers attempted to handcuff § 87(2)(b) but he resisted by shifting his body from side to side. During that time, the officers were ordering § 87(2)(b) to stop moving. Eventually, they were able to handcuff § 87(2)(b). EMT § 87(2)(b) did not observe § 87(2)(b) being taken to the ground. She did not observe § 87(2)(b) push or punch the officers nor did she see any officers punch and kick § 87(2)(b). EMT § 87(2)(b) did not hear any officers tell § 87(2)(b) “This fucking retarded kid.” § 87(2)(b) was then placed into the ambulance. § 87(2)(b) came from an unknown direction and complained that the officers were mistreating her son without specifying how. EMT § 87(2)(b) assumed that § 87(2)(b) was referring to the fact that he was handcuffed and explained that he had to, because he was refusing to go to the hospital. When EMT § 87(2)(b) got to the ambulance, she observed § 87(2)(b) sitting on a bench in an oxygen mask and was informed by her partner that he was spitting. He continued to be verbally abusive on his way to the hospital and said, “Just watch, I’m gonna fight.” However, EMT § 87(2)(b) did not believe that § 87(2)(b) was a threat to himself or others.

Surveillance video footage attached to IA29 depicts several officers walk with § 87(2)(b) to the street, where the EMTs and two other officers are waiting for them [BR 07]. At 0:42, § 87(2)(b) stops, so do the officers. § 87(2)(b)’s left hand is in his left pants pocket. At 0:50, a male dressed in civilian clothes, identified by § 87(2)(b) also reaches the street and stands by the gate of the house. At 01:10, § 87(2)(b) periodically turns around towards different officers and his right hand is seen in front of his body at an angle characteristic of one holding a cell phone in front of themselves. At 01:24, a female EMT steps towards § 87(2)(b). At 01:33, § 87(2)(b) takes his other hand out of his pocket and a number of officers approach him. At 01:35, one of the officers takes him to the ground by guiding him backwards. Two to three officers are seen over § 87(2)(b) in an attempt to place him in handcuffs. Neither their actions, nor those of § 87(2)(b)’s are visible. At 2:02, § 87(2)(b) is picked up and is walked to the ambulance.

Cell phone video provided by § 87(2)(b) attached to IA64, opens up with him standing outside and recording the officers in front of him [BR 14]. PO Paul and EMT § 87(2)(b) are seen standing in his immediate vicinity. At 0:01, § 87(2)(b) makes a statement ending with “fuck up man.” At 0:05, § 87(2)(b) says he is not going anywhere and does not want to go anywhere. The camera then shakes, presumably from him falling to the ground, and is now facing the sky. At 0:09, § 87(2)(b) says, “What the fuck man?” There is a commotion in front of the screen and the camera is now sitting on the ground. At 0:14, an officer is heard saying, “Put your hands behind your back.” Between 0:15 and 0:19, § 87(2)(b) is heard screaming, “Ah,

ah,” several times. At 0:20, he yells he would file a law suit and asks, “What the fuck?” At 0:29, he is heard saying, “I’m gonna kill you.” At 0:31, an officer is heard saying, “He is gonna spit.” Someone says to put § 87(2)(b) into the ambulance. At 0:35, an officer picks the phone up and the video ends.

Investigating Supervisor's Assessment Report #2018-106-00067-1 prepared by Capt. Steven Beatty of Intelligence Criminal Section notes that he interviewed § 87(2)(b) and § 87(2)(b) [NYPD 10]. Their stories are consistent with their testimonies to the CCRB. Capt. Beatty also interviewed Sgt. Kenny, who said that § 87(2)(b) refused to go to the hospital, became combative and threatened to spit at and bite the officers. Sgt. Kenny took § 87(2)(b) to the ground to gain compliance, but he started resisting. Therefore, Sgt. Kenny struck § 87(2)(b) twice on his head in an attempt to control his hands. Capt. Beatty recommended that the case be referred to Patrol Borough Queens South Investigations Unit for further investigation.

[illegible]

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sgt. Kenny has been a member of service for 16 years and has been a subject in four other CCRB complaints and 10 allegations, none of which were substantiated.
 - 200604138 and 201510238 involved discourtesy – word allegations plead against Sgt. Kenny that were both closed as unsubstantiated.
 - 201412027, 201510238, and 201608591 involved physical force allegations pled against Sgt. Kenny that were closed as exonerated, exonerated and unsubstantiated, respectively.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On April 29, 2019, a request to determine if a Notice of Claim was filed was submitted; confirmation from the New York City Office of the Comptroller will be forwarded upon receipt [BR 19].
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Squad No.: 8

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date